

interest of the public had acquired sufficient knowledge and experience having regard to his previous experience in the government service. For myself it is difficult to appreciate that say 8 to 10 years' experience in the judicial and legal service of the government, could not be regarded as equivalent to three months' experience in the office of a legal practitioner. To regard otherwise in my view, is to have a very poor view of the standard of knowledge and experience required of a legal or judicial officer.

There is another small objection from Mr. Menon. On the same day I heard this petition the petitioner filed a further affidavit enclosing a certified copy of the certificate from the university certifying that the petitioner had attended a course of instruction. The affidavit explained why a certified copy was filed so late. Since the petitioner had already affirmed that he had attended the course in his principal affidavit and that this subsequent affidavit is merely a confirmation to the fact that he had attended the course I am afraid this objection must also fail.

I would therefore make the order prayed in paragraph (1) of the motion. I would also say that the time for posting has also been sufficient to enable anybody who knows anything against petitioner's character and suitability to come forward and speak. I would therefore, also make the order prayed for in paragraph (2). I would therefore make the order prayed in paragraph (3) in the petition that the petitioner may forthwith be admitted and enrolled as an advocate and solicitor of the High Court of Malaya.

Petition granted.

SHANMUGANATHAN v. PUBLIC PROSECUTOR

[A.Cr.J. (Azmi C.J. (Malaya)) October 15, 1966]

[K.L.—Selangor Criminal Appeal No. 60 of 1966]

Criminal Law and Procedure — Sentence — Excessive — Criminal Procedure Code (Cap. 6), s. 173A.

Penal Code, s. 408 — Criminal breach of trust — First offender — Sentence.

The appellant was convicted of having committed criminal breach of trust of \$150 cash, an offence punishable under section 408 of the Penal Code and sentenced to 4 months imprisonment. He was 24 years old and had no previous convictions. From the facts it appeared that it was not probable that a series of breaches of trust could have been committed by the appellant without the knowledge of the other employees. After the breaches of trust the appellant's father had paid a sum of \$2,500 to make good the amount alleged to have been misappropriated by the appellant. He appealed against the sentence.

Held: in view of the circumstances of the case, particularly the appellant's age and clean record, the sentence of imprisonment was not an appropriate one. Accordingly, he should be released on a bond under section 173A of the Criminal Procedure Code to be of good behaviour for a period of one year with one surety in the sum of \$1,000.

A CRIMINAL APPEAL.

Dato' Athi Nahappan for the appellant.

Ajaib Singh & Hashim bin Majid (Deputy Public Prosecutors) for the respondent.

B *Azmi C.J. (Malaya)*: The appellant was convicted of having committed criminal breach of trust of \$150 cash whilst in the employment of Borneo Motors (M) Ltd. Kuala Lumpur, an offence punishable under section 408 of the Penal Code and was sentenced by the president of the sessions court to four month's imprisonment.

C Originally he appealed against both conviction and sentence but ultimately he withdrew the the appeal against conviction and asked me to consider only the question of sentence.

The appellant is a young man of 24 years of age and has been in the employment of his employer since December 1959.

D It was part of his duty as a receptionist to receive orders for repairs of motor vehicles from the customers of the company and then after recording the request for repairs in the cards to give instructions to the other employees of the company what repairs would be required.

E When any such repairs are completed it would be the duty of the appellant to see that the amount claimed for the work would be collected and paid to the cashier for which the cashier would give a receipt to be handed to the customer.

F Although the subject of the charge is only in reference to a single transaction it would appear that there are many other transactions involving various sums of money received from various customers for several months in 1963.

G In my view having regard to the facts it would not be probable that the series of breaches of trust could have been committed by the appellant without the knowledge of the other employees.

H It is also shown that the father of the appellant had, having heard of these breaches of trust by the appellant, paid back to the company a sum amounting to \$2,500 to pay towards the amount alleged to have been misappropriated by the appellant.

I In view of the above circumstances, particularly the age of the appellant and his clean record, I feel that the sentence of imprisonment would not be an appropriate one. I therefore order that the appellant be released on his signing a bond under section 173A of the Criminal Procedure Code to be of good behaviour for a period of one year with one surety in the sum of \$1,000.

Order accordingly.

Solicitors: Athinahappan & Co.